

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

UNITED STATES OF AMERICA

V.

CRIMINAL NO. 1:22cr58LG-RHWR

PATRICK DARNELL DANIELS, JR.

**DEFENDANT'S MOTION TO DISMISS**

COMES NOW the defendant, PATRICK DARNELL DANIELS, JR., and moves this Court to dismiss the Indictment because 18 U.S.C. §922(g)(3) is a facially unconstitutional restriction on a person's Second Amendment right to bear arms. "[t]he right of the people to keep and bear arms, shall not be infringed. U.S. Const. amend. II.

As discussed in the accompanying supporting memorandum, the means-end scrutiny of laws interfering with an individual's right to bear arms used by the Fifth Circuit no longer applies. New York State Rifle & Pistol Association, Inc. v. Bruen, No. 20-843, 2022 WL 2251305, (S.Ct., June 23, 2022). "The government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms. Id. at \*9. The court is "to assess whether modern firearms regulations are consistent with the Second Amendment's text and historical understanding. Id. at \*12.

The government cannot prove that 18 U.S.C. §922(g)(3) is lawful restriction on gun ownership based on text, history, and tradition. 18 U.S.C. §922(g)(3) is therefore unconstitutional.

WHEREFORE, the defendant respectfully requests that his motion be granted and that the Court dismiss the indictment filed against the defendant in this case.

Respectfully submitted this, the 1st day of July, 2022.

OMODARE B. JUPITER  
Federal Public Defender

By: /s/John W. Weber III  
John W. Weber III (MB# 101020)  
Assistant Federal Public Defender  
Southern District of Mississippi  
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**NOTICE OF MOTION**

This Motion will be brought on for hearing as soon as this counsel can be heard.

/s/John W. Weber III  
John W. Weber III

**CERTIFICATE OF SERVICE**

I, John W. Weber III, do hereby certify that I have this day electronically filed the foregoing Motion with the Clerk of the Court using the ECF system which sent notification of such filing to the Assistant United States Attorney Erica Rose.

This the 1st day of July, 2022.

/s/John W. Weber III  
John W. Weber III  
Assistant Federal Public Defender